

(c) Notwithstanding paragraph (a) of this section, in connection with conveyed properties and claims without conveyance, debentures issued as reimbursement for expenditures made by a mortgagee after the date of default shall be dated as of the date the expenditure is actually made by the mortgagee.

[36 FR 24508, Dec. 22, 1971, as amended at 50 FR 3892, Jan. 29, 1985; 52 FR 1329, Jan. 13, 1987; 59 FR 50145, Sept. 30, 1994; 60 FR 57678, Nov. 16, 1995]

#### § 203.411 Cash adjustment.

Any difference of less than \$50 between the amount of debentures to be issued to the mortgagee and the total amount of the mortgagee's claim, as approved by the Commissioner, may be adjusted by the issuance of a check in payment thereof.

[59 FR 49816, Sept. 30, 1994]

#### § 203.412 Payment for foreclosure alternative actions.

Notwithstanding the conveyance, sale, or assignment requirements for payment of a claim elsewhere in this part, HUD may pay the mortgagee, in accordance with procedures prescribed by HUD, for the following foreclosure alternative actions, in such amounts as HUD determines:

- (a) Assumptions under § 203.512;
- (b) Special forbearance under §§ 203.471 and 203.614;
- (c) Recasting or modification of defaulted mortgages under § 203.616, where the mortgagee is not reimbursed under § 203.405(a);
- (d) Refinancing under § 203.43(c).

[61 FR 35019, July 3, 1996]

#### § 203.413 [Reserved]

#### § 203.414 Amount of payment—partial claims.

(a) *Claim amount.* Where a claim for partial insurance benefits is filed in accordance with § 203.371, the amount of the insurance benefits shall consist of the arrearage not to exceed an amount equivalent to 12 monthly mortgage payments, and any costs prescribed by HUD related to the default.

(b) *Servicing fee.* The claim may also include a payment for activities, such

as servicing the subordinate mortgage, which HUD may require.

[61 FR 35019, July 3, 1996, as amended at 62 FR 60130, Nov. 6, 1997]

#### CERTIFICATE OF CLAIM

#### § 203.415 Delivery of certificate of claim.

(a) If the mortgage was accepted for insurance pursuant to a commitment issued prior to September 2, 1964, the mortgagee may, by filing a written request with the application for debentures, receive in addition to the debentures and the cash adjustment check, a certificate of claim issued in accordance with section 204(e) of the Act. This certificate shall become payable (if at all) as prescribed in section 204(f) of the Act.

(b) If the mortgage was accepted for insurance pursuant to a commitment issued on or after September 2, 1964, or under the Direct Endorsement, Lender Insurance, or Coinsurance programs, no certificate of claim will be issued.

[36 FR 24508, Dec. 22, 1971, as amended at 57 FR 58349, Dec. 9, 1992; 62 FR 30227, June 2, 1997]

#### § 203.416 Amount and items of certificate of claim.

The certificate shall be for an amount which the Commissioner determines to be sufficient to pay all amounts due under the mortgage and not covered by the amount of debentures and cash adjustment check. The certificate shall include a reasonable amount for necessary expenses incurred by the mortgagee in connection with the foreclosure proceedings or the acquisition of the mortgaged property otherwise and the conveyance thereof to the Commissioner, including reasonable attorneys' fees, unpaid interest, and cost of repairs to the property made by the mortgagee to remedy the waste.

#### § 203.417 Rate of interest of certificate of claim.

Each certificate of claim shall provide that there shall accrue to the holder thereof with respect to the face amount of such certificate, an increment at the rate of 3 percent per annum.

## § 203.420

### MUTUAL MORTGAGE INSURANCE FUND AND DISTRIBUTIVE SHARES

#### § 203.420 Nature of Mutual Mortgage Insurance Fund.

The Mutual Mortgage Insurance Fund shall consist of the General Surplus Account and the Participating Reserve Account.

#### § 203.421 Allocation of Mutual Mortgage Insurance Fund income or loss.

For any semiannual period in which Mutual Mortgage Insurance operations shall result in a net income, or loss, the Commissioner shall allocate, after taking into account the actuarial status of the entire Mutual Mortgage Insurance Fund, such net income or such loss to the General Surplus Account and/or to the Participating Reserve Account as the Commissioner may determine to be in accord with sound actuarial and accounting practice. In determining net income or loss, the Commissioner shall take into consideration all income received from fees, premiums and earnings on investments of the fund, operating expenses and provision for losses to the fund.

[56 FR 18948, Apr. 24, 1991]

#### § 203.422 Right and liability under Mutual Mortgage Insurance Fund.

No mortgagor or mortgagee shall have any vested right in a credit balance in either the General Surplus Account or the Participating Reserve Account. No mortgagor or mortgagee shall be subject to any liability arising under the mutuality of the Mutual Mortgage Insurance Fund.

#### § 203.423 Distribution of distributive shares.

(a) The Commissioner may provide for the distribution to the mortgagor of a share of the participating reserve account if the contract of insurance is terminated by:

(1) Conveyance to one other than the Commissioner and a claim for the insurance benefits is not presented by the mortgage (§203.315), provided, however, in the case of a mortgage insured pursuant to an application for a conditional commitment received on or

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after May 19, 1988, (or, as appropriate, an application for mortgage insurance endorsement under the Single Family Direct Endorsement program, as provided in §203.255, where the property appraisal report is signed by the mortgagee's underwriter on or after May 19, 1988, no distribution shall be made if the mortgagee forecloses the mortgage or accepts a deed-in-lieu of foreclosure;

(2) Prepayment of the mortgage (§203.316); or

(3) Voluntary agreement of the mortgagor and mortgagees (§203.317).

(b) The Commissioner shall determine the amount of the distributive share by multiplying the amount of the premium or premiums paid by the applicable distributive share percentage for mortgages insured in the year the mortgage was endorsed for insurance. The Commissioner shall determine the applicable distributive share percentage in an equitable manner and in accordance with sound financial and actuarial practice, taking into account the cumulative actual financial and actuarial experiences through the end of the most recent calendar year.

[48 FR 28806, June 23, 1983, as amended at 52 FR 1329, Jan. 13, 1987; 53 FR 10530, Apr. 1, 1988; 61 FR 36453, July 10, 1996]

#### § 203.424 Maximum amount of distributive shares.

In no event shall a distributive share of the Participating Reserve Account exceed the aggregate scheduled annual premiums of the mortgagor to the year of termination of the insurance.

#### § 203.425 Finality of determination.

The determination of the Commissioner as to the amount to be paid to any mortgagor from the Mutual Mortgage Insurance Fund shall be final and conclusive.

#### § 203.426 Inapplicability to housing in older declining urban areas.

The provisions of §§203.420 through 203.425 shall not apply to mortgages financing housing in declining urban areas meeting the requirements of §203.43a.